

## Federal Housing Enterprise Oversight

## § 1704.51

(i) The debtor owes the debt, including the amount and basis of the debt;

(ii) The agency has prescribed regulations for the exercise of administrative offset; and

(iii) The agency has complied with its own administrative offset regulations and with the applicable provisions of the FCCS, including providing any required hearing or review.

(2) A determination by OFHEO that collection by administrative offset against funds payable by OFHEO would be in the best interest of the Federal Government as determined by the facts and circumstances of the particular case and that such administrative offset would not otherwise be contrary to law.

### § 1704.47 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.

(a) *Request for administrative offset.* Unless otherwise prohibited by law, OFHEO may request that monies that are due and payable to a debtor from the Civil Service Retirement and Disability Fund (Fund) be offset administratively in reasonable amounts in order to collect in one full payment or in a minimal number of payments debt owed to OFHEO by the debtor. Such requests shall be made to the appropriate officials of the Office of Personnel Management in accordance with such regulations as may be prescribed by the Director of the Office of Personnel Management.

(b) *Contents of certification.* When making a request for administrative offset under paragraph (a) of this section, OFHEO shall include a written certification that:

(1) The debtor owes OFHEO a debt, including the amount of the debt;

(2) OFHEO has complied with the applicable statutes, regulations, and procedures of the Office of Personnel Management; and

(3) OFHEO has complied with the requirements of the FCCS, including any required hearing or review.

(c) If OFHEO decides to request administrative offset under paragraph (a) of this section, it shall make the request as soon as practicable after completion of the applicable procedures. This will satisfy any requirement that

administrative offset be initiated prior to the expiration of the applicable statute of limitations. At such time as the debtor makes a claim for payments from the Fund, if at least one year has elapsed since the administrative offset request was originally made, the debtor shall be permitted to offer a satisfactory repayment plan in lieu of administrative offset if he or she establishes that changed financial circumstances would render the administrative offset unjust.

(d) If OFHEO collects part or all of the debt by other means before deductions are made or completed pursuant to paragraph (a) of this section, OFHEO shall act promptly to modify or terminate its request for administrative offset under paragraph (a) of this section.

### §§ 1704.48–1704.49 [Reserved]

## Subpart D—Tax Refund Offset

### § 1704.50 Authority and scope.

The provisions of 26 U.S.C. 6402(d) and 31 U.S.C. 3720A authorize the Secretary of the Treasury to offset a delinquent debt owed the Federal Government from the tax refund due a taxpayer when other collection efforts have failed to recover the amount due.

### § 1704.51 Definitions.

(a)(1) *Debt* means money owed by an individual, organization, or entity from sources which include loans insured or guaranteed by the Federal Government and all other amounts due the Federal Government from fees, leases, services, overpayments, civil and criminal penalties, damages, interest, fines, administrative costs, and all other similar sources.

(2) A debt becomes eligible for tax refund offset procedures if:

(i) It cannot currently be collected pursuant to the salary offset procedures of 5 U.S.C. 5514(a)(1);

(ii) The debt is ineligible for administrative offset under 31 U.S.C. 3716(a) by reason of 31 U.S.C. 3716(c)(2), or it cannot be collected currently by administrative offset under 31 U.S.C. 3716(a); and

(iii) The requirements of this section are otherwise satisfied.

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(3) All judgment debts are past due for purposes of this subpart D. Judgment debts remain past due until paid in full.

(b) *Dispute* means a written statement supported by documentation or other evidence that all or part of an alleged debt is not past due or legally enforceable, that the amount is not the amount currently owed, that the outstanding debt has been satisfied, or in the case of a debt reduced to judgment, that the judgement has been satisfied or stayed.

(c) *Notice* means the information sent to the debtor pursuant to § 1704.53. The date of the notice is that date shown on the notice letter as its date of issuance.

[64 FR 34969, June 30, 1999. Redesignated and amended at 65 FR 81328, Dec. 26, 2000]

### § 1704.52 Procedures.

(a) *Referral to the Department of the Treasury.* (1) OFHEO may refer any past due, legally enforceable nonjudgment debt of an individual, organization, or entity to the Department of the Treasury for tax refund offset if OFHEO's or the referring agency's rights of action accrued more than three months but less than 10 years before the offset is made.

(2) Debts reduced to judgment may be referred at any time.

(3) Debts in amounts lower than \$25 are not subject to referral.

(4) In the event that more than one debt is owed, the tax refund offset procedures shall be applied in the order in which the debts became past due.

(5) OFHEO shall notify the Department of the Treasury of any change in the amount due promptly after receipt of payment or notice of other reductions.

(b) *Notice.* OFHEO shall provide the debtor with written notice of its intent to offset before initiating the offset. Notice shall be mailed to the debtor at the current address of the debtor, as determined from information obtained from the Internal Revenue Service pursuant to 26 U.S.C. 6103(m)(2), (4), (5) or maintained by OFHEO. The notice sent to the debtor shall state the amount of the debt and inform the debtor that:

(1) The debt is past due;

(2) OFHEO intends to refer the debt to the Department of the Treasury for offset from tax refunds that may be due to the taxpayer;

(3) OFHEO intends to provide information concerning the delinquent debt exceeding \$100 to a consumer reporting bureau unless such debt has already been disclosed; and

(4) Before the debt is reported to a consumer reporting agency, if applicable, and referred to the Department of the Treasury for offset from tax refunds, the debtor has 65 calendar days from the date of notice to request a review under paragraph (d).

(c) *Report to consumer reporting agency.* If the debtor neither pays the amount due nor presents evidence that the amount is not past due or is satisfied or stayed, OFHEO will report the debt to a consumer reporting agency at the end of the notice period, if applicable, and refer the debt to the Department of the Treasury for offset from the taxpayer's Federal tax refund. OFHEO shall certify to the Department of the Treasury that reasonable efforts have been made by OFHEO to obtain payment of such debt.

(d) *Request for review.* A debtor may request a review by OFHEO if he or she believes that all or part of the debt is not past due or is not legally enforceable, or in the case of a judgment debt, that the debt has been stayed or the amount satisfied, as follows:

(1) The debtor must send a written request for review to OFHEO at the address provided in the notice.

(2) The request must state the amount disputed and reasons why the debtor believes that the debt is not past due, is not legally enforceable, has been satisfied, or if a judgment debt, has been satisfied or stayed.

(3) The request must include any documents that the debtor wishes to be considered or state that additional information will be submitted within the time permitted.

(4) If the debtor wishes to inspect records establishing the nature and amount of the debt, the debtor must make a written request to OFHEO for an opportunity for such an inspection. The office holding the relevant records not exempt from disclosure shall make them available for inspection during